

# Legislative Analysis



## SALES TAX DEFINITION OF "MATERIALPERSON": INCLUDE A PERSON SELLING PRECAST CONCRETE

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**House Bill 4067**

**Sponsor: Rep. Jeff Mayes**

**Committee: Tax Policy**

**Complete to 2-26-07**

### **A SUMMARY OF HOUSE BILL 4067 AS INTRODUCED 1-22-07**

Generally speaking, the General Sales Tax Act requires businesses to remit the sales taxes they collect on the 20<sup>th</sup> of each month. However, the act allows a "materialperson" —a business that sells materials to an owner, contractor, subcontractor, repairperson, or consumer on a credit-sale basis for the purpose of making an improvement to real property—to file on a quarterly basis, with collections due on the April 20, July 20, October 20, and January 20 for the calendar quarter ending the previous month.

A materialperson is currently defined in the act as a person who is primarily engaged in the sale of lumber and building materials used for the improvement of real property to owners, contractors, subcontractors, repairpersons, and consumers and who is authorized to file a construction lien under the Construction Lien Act. House Bill 4067 provides that a materialperson would also include **a person who sells precast concrete products**.

MCL 205.56

### **FISCAL IMPACT:**

The bill would have a minimal fiscal impact on the state and local units of government.

### **BACKGROUND INFORMATION:**

#### **Sales Tax Treatment of Materialpersons**

As mentioned earlier, generally speaking, the General Sales Tax Act requires businesses to remit the sales taxes they collect on the 20<sup>th</sup> of each month. However, the act allows a firm that sells lumber and building-related products used in construction on credit (a "materialperson") to file on a quarterly basis, due on the April 20, July 20, October 20, and January 20 for the calendar quarter ending the previous month.

When sales of materials used for construction are made on a credit basis, the seller typically receives the payment three or four months after the sale. Requiring these firms to file returns on a monthly basis creates considerable cash flow problems. Public Act 453 of 1998 amended the General Sales Tax Act to alleviate this problem by permitting materialpersons to file returns on a quarterly basis.

Sellers of precast concrete products also make most sales on a credit basis and face the same financial constraints when required to make monthly returns. Following enactment of Public Act 453 at least one seller of precast concrete products began submitting quarterly sales tax returns. However, the Department of Treasury, in the course of its regular audits, discovered that the firm, by not also selling lumber products, did not meet the definition of "materialperson" under the General Sales Tax Act and wasn't eligible to make quarterly payments.

### **Precast Concrete Products**

While not defined in the bill, precast concrete products are used in the construction of commercial and residential buildings and improve the appearance or usefulness of the physical site around a building, and include such products as steps, basement and above-grade walls, foundation systems, basement entries, floor and roof slabs, architectural wall panels, furniture, landscape retaining walls, modular paving products, modular housing units, air conditioning pads, ornamental products, parking bumpers and curbs, signs, storms shelters, safe rooms, bank vaults, and automated teller machine vaults.

Based on information provided by the sponsor concerning an identical bill (House Bill 5770) from last session, the following Michigan businesses sell precast concrete products:

- ADL Systems, Inc. – Portland
- Advance Concrete Products Co. – Highland
- Aggregate Industries/Central Region – Kalamazoo
- American Concrete Products, Inc. – Howell
- Bush Concrete Products, Inc. – Muskegon
- Grand Valley Concrete Products, Inc. – Grand Rapids
- Hollowcore Midwest LLC – Detroit
- Kerkstra/Spancrete Great Lakes – Jenison
- LC Redi Mix, Inc. – Lake City
- Mack Industries of Michigan – White Lake
- Milan Vault, Inc. – Milan
- Northern Concrete Pipe, Inc. – Bay City
- Stress-Con Industries – Detroit
- Upper Peninsula Concrete Pipe Co. – Escanaba

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